

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

**Communications Division
Carrier Oversight and Programs Branch**

**RESOLUTION T-17384
December 20, 2012**

RESOLUTION

RESOLUTION T-17384. This Resolution grants the request of Blue Casa Telephone, LLC (U-7222-C) to be designated as an Eligible Telecommunications Carrier to provide Federal Lifeline services in the Uniform Regulatory Framework carrier's service territories in California.

SUMMARY

By this Resolution, the California Public Utilities Commission (CPUC or Commission) grants the request of Blue Casa Telephone, LLC (U-7222-C) (BCT) to be designated as an Eligible Telecommunications Carrier (ETC) to provide federal Lifeline service in the Uniform Regulatory Framework carriers ("URF") service territories.¹ BCT is not requesting federal High-Cost Fund support. BCT is seeking ETC designation pursuant to Decision 10-11-033 (*Modifications to the California LifeLine Program*), to ensure that it will be eligible to receive federal Lifeline subsidies beginning January 1, 2013.² BCT's request is consistent with Resolution T-17002, Federal Communication Commission (FCC) Order 12-11 (*Lifeline Reform Order*), General Order (G.O) 153, and applicable requirements for a CPUC certificated carrier. BCT's Lifeline service offering increases consumer choices, allows consumers to receive both federal and state subsidized wireline service, and will not have an adverse effect on the state LifeLine fund. Granting BCT ETC designation is in the public interest and Advice Letter No.3 is approved.

BACKGROUND

In D. 12-02-009, the Commission granted Blue Casa Telephone, LLC, (BCT) a Certificate of Public Convenience and Necessity (CPCN) to provide resold and limited facilities

¹ URF carriers are Pacific Bell Telephone Company d/b/a AT&T California, (AT&T), Verizon California, Inc. (Verizon), Citizens Telecommunications Company of California, Inc. d/b/a Frontier Communications of California (Frontier), and Surewest Telephone (Surewest)

² Decision 10-11-033 pp. 100

based competitive local exchange, access and non-dominant interexchange telephone services in the territories of Pacific Bell Telephone Company d/b/a AT&T California, (AT&T), Verizon California, Inc. (Verizon), Citizens Telecommunications Company of California, Inc. d/b/a Frontier Communications of California (Frontier), and Surewest Telephone (Surewest), and resold and limited facilities-based interexchange service to the entire State of California.³ BCT was a wholly owned subsidiary of TCAST Communications. BCT's principal office is located at 114 E. Haley Street, Suite A, Santa Barbara, California, 93101. BCT currently provides basic residential telephone service and participates in the California LifeLine program.

Pursuant to federal law, state commissions or the FCC designate telephone corporations as ETCs. The FCC then authorizes the ETC to receive federal Universal Service Fund (USF) support for providing local telephone service in high-cost areas and to low-income customers.

The FCC established the ETC program to satisfy the statutory requirement of the Telecommunications Act of 1996.⁴ The federal USF support creates an incentive for the telephone carriers to provide quality residential telephone services at an affordable rate to low-income consumers and/or those living in designated high-cost areas, e.g., rural areas. In Resolution T-17002, the Commission adopted The Comprehensive Procedures and Guidelines for ETC Designation and Requirements for ETCs that are consistent with the FCC Orders 97-157 and 05-46 regarding designation of a telephone carrier as a qualified ETC. All carriers seeking ETC designation in California are required to comply with the applicable requirements for a CPUC certificated or registered carrier.

On November 29, 2011, FCC Order 11-161, the USF/ICC Transformation Order and Further Notice of Proposed Rulemaking, which adopted comprehensive reforms to the universal service and the intercarrier compensation systems to ensure that voice and broadband services are available to Americans throughout the nation. Among other things, the order revised the list of supported services and amended section 54.101 of the Commission's rules to specify that "voice telephony services" is supported by the federal universal service support mechanism. Subsequently, FCC 11-189, the CAF-ICC Sua Sponte Order on Reconsideration, was released on December 23, 2011 to amend information adopted in USF/ICC Transformation Order and FNPRM. Included in the amendment, the FCC adopted an amended definition of voice telephony services⁵ and affirmed that:

³ Decision 12-02-009 at pp.1-3.

⁴ 47 U.S.C. Section 214(e)

⁵ FCC Order 11-189, Par. 3: "...we amend section 54.101 to read: "Services designated for support. Voice telephony services shall be supported by federal universal service support mechanisms. Eligible voice

“...only carriers that provide “voice telephony” as defined under section 54.101(a) as amended using their own facilities will be deemed to meet the requirements of section 214(e)(1). Thus, a Lifeline-only ETC does not meet the “own-facilities” requirement of section 214(e)(1) if its only facilities are those used to provide functions that are no longer supported “voice telephony services” under amended rule 54.101, such as access to operator services or directory services.”

On January 31, 2012, FCC Order 12-11, the Lifeline Reform Order, adopted a comprehensive reform of the Universal Service Fund’s Lifeline Program. Among the changes the FCC adopted were the following: elimination of Link Up support in Non-Tribal Areas; imposition of uniform eligibility, certification and verification requirements in part through the development and use of a National Lifeline Accountability Database; and phasing out of Toll Limitation Services (TLS) support. The Lifeline Reform Order also amended §54.202 and §54.203 of the FCC’s rules to require that a common carrier seeking to be designated as a Lifeline-only ETC demonstrate its technical and financial capacity to provide the supported service. Among the relevant considerations for such a showing are whether the applicant previously offered services to non-lifeline consumers, how long it has been in business, whether the applicant intends to rely exclusively on USF disbursements to operate, whether the applicant receives or will receive revenue from other resources, and whether it has been subject to enforcement action or ETC revocation proceedings in any state.⁶

In addition to reviewing ETC designation requests for compliance with the federal and CPUC ETC requirements, the Communications Division (CD) staff reviews the requests for compliance with CPUC California LifeLine rules contained in G.O. 153 and Decision (D.) 10-11-033. CD staff also reviews the request for compliance with other state regulatory requirements for telephone corporations operating in California, including but not limited to, reporting revenues, collection and remittance of California Public Utilities Commission (CPUC) user fees and Public Purpose Program (PPP) surcharges, and submitting required reports.

telephony services must provide voice grade access to the public switched network or its functional equivalent; minutes of use for local service provided at no additional charge to end users; access to the emergency services provided by local government or other public safety organizations, such as 911 and enhanced 911, to the extent the local government in an eligible carrier’s service area has implemented 911 or enhanced 911 systems; and toll limitation for qualifying low-income consumers (as described in subpart E of this part).”

⁶ FCC Order 12-11 para. 387-388

In D. 10-11-033, the Commission made changes to the California LifeLine program and adopted a policy “that encourages non-ETCs to become ETCs so as to obtain more federal funding and reduce their draw on the California LifeLine fund.”⁷ Prior to January 1, 2013, the California LifeLine program would make up the federal Lifeline subsidy that was not available to non-ETCs. As of January 1, 2013, the California LifeLine program will no longer make up the federal subsidy. Consequently, the California LifeLine program will continue to pay the federal make-up charge for non-ETCs until December 31, 2012, and after that date California LifeLine service providers may not claim the federal reimbursements from the California LifeLine fund.⁸

SUBJECT OF ADVICE LETTER FILING

On October 4, 2012, BCT filed Advice Letter (AL) No. 3 requesting ETC designation for the limited purpose of providing Federal Lifeline services in URF carrier service territories in California pursuant to Section 214 (e) of the federal Communications Act of 1934, and in accordance with Industry Rule 5.1 of G.O. 96-B, Resolution T-17002 and D. 10-11-033. BCT does not seek federal High-Cost support. BCT provided information to comply with the requirements of Resolution T-17002, FCC 12-11 and General Order 153.

NOTICE/PROTEST

In compliance with General Order (G.O.) 96-B, Blue Casa Telephone, LLC served a copy of its AL No. 3 on October, 4, 2012 via email to its AL service list, and posted on the CPUC Daily Calendar on October, 12, 2012.

No party protested Blue Casa’s AL No. 3.

DISCUSSION

Compliance with Resolution T-17002 and FCC 12-11

In order for the Commission to grant BCT’s request to be designated as an ETC, BCT has to satisfy the requirements for designation as an ETC pursuant to Resolution T-

⁷ Decision 10-11-033 p. 100

⁸ G.O. 153 §9.3.3

17002, The Comprehensive Procedures and Guidelines for ETC Designation. BCT's AL contained information required by Appendix A of Resolution T-17002. Since BCT only seeks to participate in the federal Lifeline program and does not intend to draw from the federal High-Cost Fund program, BCT is not required to meet the requirements contained in Appendix A: Section II-B: Two-Year Service Quality Improvement Plan, and in Appendix B: Comprehensive Reporting Requirements for ETCs to receive federal High-Cost Support to Resolution T-17002.

CD staff has reviewed BCT's request for limited ETC designation and believes that BCT has satisfied the applicable requirements in Resolution T-17002 regarding ETC designation for federal Lifeline support, e.g., requirements to submit maps, a commitment to provide the services supported by the USF, a demonstration of its ability to remain functional in an emergency situation, and a commitment to satisfy consumer protection and service quality standards.

CD staff also believes that BCT complies with the ETC rules recently adopted by the FCC. BCT offers the voice telephony services with the functionalities supported by federal universal service support mechanisms in the service areas where it plans to be eligible to receive federal Lifeline support.⁹ Blue Casa will provide these services using a combination of resold and its own facilities. In the Lifeline Reform Order, the FCC revised the definition of the supported service to be "voice telephony services."¹⁰ Eligible Voice Telephony Service must provide:

- 1) Voice grade access to the public switched network;
- 2) Minutes of use for local service provided at no additional charge to end-users;
- 3) Access to the emergency services provided by local government or other public safety organizations, such as 911 and enhanced 911, to the extent the local government in an eligible carrier's service area has implemented 911 or enhanced 911 systems; and
- 4) Toll limitation for qualifying low-income consumers.

As a designated ETC, BCT commits to using media of general distribution to comply with Appendix A: Section I –E of Resolution T-17002 and Title 47 C.F.R. Section 54.201. BCT already advertises its product and services through various marketing channels, including one or more of the following: online and print media; including newspapers, various weekly periodicals, direct mail pieces and other channels.¹¹

⁹ FCC Rule §54.101(a) & §54.401(a)

¹⁰ USF/ICC Transformation Order and FNPRM, FCC 11-161 at para. 77.

¹¹ BCT AL no.3 at pg.6

The *Lifeline Reform Order* now include an explicit requirement in Section 54.202 that a common carrier seeking to be designated as a Lifeline-only ETC demonstrate its technical and financial capacity to provide the supported service. Among the relevant considerations for such a showing would be whether the applicant previously offered services to non-lifeline consumers, how long it has been in business, whether the applicant intends to rely exclusively on USF disbursements to operate, whether the applicant receives or will receive revenue from other resources, and whether it has been subject to enforcement action or ETC revocation proceedings in any state.

BCT was granted authority to provide resold and limited facilities based competitive local exchange, access and non-dominant interexchange telephone services in D.12-02-009, the Commission determined that BCT has demonstrated it is financially and technically capable of offering telecommunications services.¹² There is no evidence in this case that BCT no longer possesses these capabilities. Additionally, BCT states that it will continue to offer basic service to residential customers, including California LifeLine low-income telephone service throughout the state.¹³ Therefore, staff believes BCT has met the requirements of §54.202.

Public Interest Determination

Before designating a carrier as an ETC, the Commission must determine that doing so would be in the public interest.¹⁴ CD staff believes that BCT has demonstrated that it would be in the public interest for the company to be designated as an ETC by meeting Resolution T-17002, Appendix A: Section II - G: *Public Interest Determination* requirements by demonstrating that: a) the ETC designation will increase consumer choices; b) explaining the advantages and disadvantages of its service offerings; and c) the absence of cream skimming.¹⁵

a. The ETC designation will increase consumer choices

BCT's ETC designation will serve the public interest, and the needs of Spanish speaking customers in California. ETC designation will allow BCT to continue to

¹² Decision 12-02-009 at section 3.1.2 and 3.1.3.

¹³ BCT AL No.3 at pg. 11

¹⁴ FCC 05-46, paragraph 40, CPUC Resolution T-17002 Appendix A, Section II-G: Public Interest Determination

¹⁵ *Virginia Cellular Order*, *supra* note 18, para. 32 n.102 (citation omitted). *See also Highland Cellular Order*, *supra* note 28, para. 26: "Cream skimming" refers to the practice of targeting only the customers that are the least expensive to serve, thereby undercutting the ILEC's ability to provide service throughout the area."

serve the public interest by ensuring California LifeLine consumers continue to have a choice for their communications needs. BCT is currently participating in the California's LifeLine program.

b. The advantages and disadvantages of its service offerings

CD staff recognizes that BCT will gain certain advantages in being designated as an ETC. The designation of BCT as an ETC allows consumers to receive both federal and state subsidized wireline service, and will not have an adverse effect on the state LifeLine fund. BCT offers affordable and lower priced service telephone than comparable competitors.

c. The absence of cream skimming

Cream skimming is not an issue with BCT's request to be designated as an ETC because it is not requesting federal High-Cost support. BCT's designation as an ETC would not increase the amount of funding drawn from the federal USF, unless it attracts additional new low-income customers.

Other Regulatory Requirements

In addition to meeting the public interest standards in Resolution T-17002, Appendix A discussed above, CD believes that it is also in the public interest to ensure that all telephone corporations operating in California comply with other state regulatory requirements, including but not limited to, reporting revenues, collection and remittance of CPUC user fees and PPP surcharges, and submitting required reports.

CD has determined that BCT has complied with the regulatory requirements regarding, reporting revenues, collection and remittance of PUC user fees and PPP surcharges, and submitting required reports.

BCT currently participates in the California LifeLine program and its service meets all the requirements for "basic service" set forth in G.O. 153. BCT contends that it is in strict compliance with the requirements of G.O. 153.

CD, therefore, concludes that granting BCT's request would be in the public interest and recommends that the Commission approve its ETC designation request. In addition, CD recommends that BCT be required to continue complying with all applicable Commission rules, including reporting revenues, collection and remittance

of PUC user fees and PPP surcharges. Failure to do so may result in revocation of ETC designation and as well as BCT's operating authority in California.

Universal Service Administrative Company (USAC) Certification Requirements

Title 47 of the Code of Federal Regulations (C.F.R.) §54.401 (d) requires that when an ETC is designated by a state commission, the state commission shall file or require the ETC to file information with USAC demonstrating that the ETC's Lifeline plan meets the criteria set forth in §54.400, and describe the terms and conditions of any voice telephony service plans offered to Lifeline subscribers, including details on the number of minutes provided as part of the plan, additional charges, if any, for toll calls, and rates for each such plan. CD recommends that as a condition of being granted ETC designation, that upon approval of this Resolution, BCT shall file with the USAC the information required in §54.401 (d) and concurrently provide this Commission with a copy of this information.

Title 47 C.F.R §54.422 requires that an ETC must report annually to the Office of the Secretary of the FCC and USAC information on the company, any dba's the company operates under, parent company and affiliate information, and universal service identifiers such as Study Area Codes. CD recommends that, as a condition of being granted ETC designation, BCT file the above mentioned report with the Office of the Secretary of the FCC and USAC, and concurrently file a copy of the annual report with this Commission.

Reimbursements from the California LifeLine fund

As a designated ETC, Blue Casa is eligible to obtain federal Lifeline support from the USAC for active customer Lifeline access lines which are provided using its own network in conjunction with the network of other carriers for providing Lifeline services.¹⁶

The Commission has authority to audit BCT's federal and California LifeLine claims to ensure that duplicative claims have not been made. California LifeLine payments shall be reduced by amounts received under the federal ETC program.¹⁷ CD recommends that BCT be required to provide supporting documents to CD staff as requested showing this reduction.

¹⁶ Blue Casa, AL No. 3 at p.5 and footnote #6

¹⁷ Decision 00-10-028 (G.O. 153), p.85

The Commission concurs with CD's recommendations and grants BCT's request for ETC designation for the purpose of offering federal Lifeline services in the URF service territories.

COMMENTS

This is an uncontested matter in which the request is granted. Accordingly, pursuant to Public Utilities Code Section 311(g) (2) and Rule 14.6 (c) (2) of the Commission's Rules of Practice and Procedure, the otherwise applicable 30-day period for public review and comment is waived.

No comments were filed.

FINDINGS

1. On October 4, 2012, Blue Casa Telephone, LLC (U-7222-C) (BCT) filed Advice Letter (AL) No. 3 requesting ETC designation to provide federal Lifeline services in the URF's service territories in California.
2. In D. 12-02-009, the Commission granted Blue Casa Telephone, LLC, a Certificate of Public Convenience and Necessity (CPCN) to provide resold and limited facilities-based local exchange service in the territories of Pacific Bell Telephone Company d/b/a AT&T California, (AT&T), Verizon California, Inc. (Verizon), Citizens Telecommunications Company of California, Inc. d/b/a Frontier Communications of California (Frontier), and Surewest Telephone (Surewest), and resold and limited facilities-based interexchange service to the entire State of California. BCT was a wholly owned subsidiary of TCAST Communications.
3. BCT is not requesting federal High-Cost Fund designation and support.
4. BCT is requesting ETC designation pursuant to Section 214 (e) of the federal Communications Act of 1934, and in accordance with Industry Rule 5.1 of G.O. 96-B, Resolution T-17002 and D. 10-11-033.
5. BCT has complied with the regulatory requirements for telephone corporations operating in California regarding the reporting of revenues, collection and remittance of CPUC user fees and PPP surcharges, and submitting required reports.

6. BCT has met all the requirements of Resolution T-17002 and FCC 12-11 to be designated as an ETC to provide federal Lifeline services in the URF's service territories in California.
7. BCT has demonstrated that it is in the public interest to be designated as an ETC.
8. BCT currently participates in the California LifeLine program and contends it is in strict compliance with General Order 153.
9. CD recommends that as a condition of being granted ETC designation that the Commission require BCT to file information with the USAC, pursuant to Title 47 C.F.R. Section 54.401 (d), demonstrating that its federal Lifeline plan meets FCC requirements, and describe the terms and conditions of any voice telephony service plans offered to Lifeline subscribers, including the number of minutes provided as part of the plan, additional charges, if any, for toll calls, and rates for each such plan. CD further recommends that BCT be required to file a copy of this information with this commission when submitting the information to the FCC and USAC.
10. CD recommends that as a condition of being granted ETC designation, that pursuant to, BCT will file annual reports for ETCs receiving low-income support to the Office of the Secretary of the FCC and USAC, as required by Title 47 C.F.R. § 54.422 and concurrently provide a copy of the annual report with this Commission.
11. CD recommends that BCT be required to continue complying with all applicable Commission rules, including reporting revenues, collection and remittance of CPUC user fees and PPP surcharges. Failure to do so may result in revocation of ETC designation and as well as BCT's operating authority in California.
12. California LifeLine payments shall be reduced by amounts received under the federal ETC program. CD recommends that BCT be required to provide supporting documents to CD staff as requested showing this reduction.
13. No protests were filed.

THEREFORE, IT IS ORDERED that:

1. Blue Casa, LLC (U-7222-C) (BCT) request to be designated as an Eligible Telecommunications Carrier (ETC) to provide federal Lifeline services in the URF's service territories in California, is granted.
2. BCT shall file information with the USAC, pursuant to 47 Code of Federal Regulation (C.F.R.) Section 54.401 (d), demonstrating that its federal Lifeline plan meets FCC requirements, and describe the terms and conditions of any voice telephony service plans offered to Lifeline subscribers, including the number of minutes provided as part of the plan, additional charges, if any, for toll calls, and rates for each such plan.
3. California LifeLine payments shall be reduced by amounts received under the federal ETC program. BCT shall provide supporting documents to CD staff as requested showing this reduction.
4. Pursuant to Title 47 C.F.R. Section 54.422, BCT shall file annual reports for ETCs receiving low-income support to the Office of the Secretary of the FCC, USAC, and concurrently provide a copy of the annual report with this Commission.
5. BCT shall continue to comply with all applicable Commission rules, including reporting revenues, collection and remittance of California Public Utilities Commission (CPUC) user fees and Public Purpose Program (PPP) surcharges. Failure to do so may result in revocation of ETC designation and as well as BCT's operating authority in California.

This resolution is effective today.

I certify that the foregoing resolution was duly introduced, passed, and adopted at a conference of the Public Utilities Commission of the State of California held on December 20, 2012, the following Commissioners voting favorably thereon:

/s/ Paul Clanon

PAUL CLANON
Executive Director